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BY E.C.F.

Honorable Lois Bloom
United States Magistrate Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Kamal Decosta v. City of New York, et al.
10 Civ. 5936 (NGG) (LB)

Your Honor:

I am an Assistant Corporation Counsel in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for defendant City of New York in the above-referenced matter in which plaintiff has moved for a court order compelling responses to discovery requests, holding that all objections to such requests have been waived and extending discovery. With full recognition and apologies for the lateness of this response,¹ I write to briefly respond to plaintiff's motion and explain to the Court the reasons for the delays in this matter.

As an initial matter, I regret that medical issues and accompanying treatment have unexpectedly kept me out of the office for significant periods of time over the past two months. I have been struggling with a neurological disorder that, up until just recently, was dramatically impacting my sleep patterns and consequently affected my ability to keep up with my obligations in several matters, including the instant matter. While I have endeavored to stay current with deadlines, this has been increasingly difficult and has necessitated the recent reassignment of many of my cases. Fortunately, I am pleased to report that these reassignments, along with improvements in my treatment, have assisted in managing my case load. As such, I am hopeful

¹ As noted herein, medical issues have complicated my ability to keep abreast of deadlines. With respect to the deadline for this response, in particular, I note that I have been out of the office for the last week and a half, and was only today aware of the need to provide a response to plaintiff's motion.

that no further delays will occur in this matter and am confident that defendants will be prepared to provide discovery responses within the next two weeks.

Given these personal issues of counsel, defendants would hope that the Court may be willing to excuse the delays in this matter without prejudicing defendants' right to provide discovery responses and objections. While plaintiff has moved for an order that any such objections be waived, defendants respectfully request that plaintiff's motion be denied in anticipation of service of discovery responses within the next two weeks. For that reason, of course, defendants do not oppose plaintiff's request for an extension of discovery and respectfully request that discovery be extended sixty days, to January 29, 2012.

Finally, defendants also note that plaintiff's motion, which was made with an extended briefing and memorandum, was filed without consistency with Local Civil Rule 37.3, which generally requires that the Court be notified of a discovery dispute via letter prior to any briefing on a particular issue. Accordingly, to the extent that plaintiff seeks attorneys' fees for the extensive time spent preparing his motion and accompanying papers, defendants object to any such fee award since such attorney hours were expended prematurely, prior to following the plain directions of Local Civil Rule 37.3.

I thank the Court for its time and consideration of this matter.

Respectfully submitted,

s/

Matthew Weir
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Special Federal Litigation Division

cc: Lurie Daniel Favors, Esq., counsel for plaintiff (by E.C.F.)